

PHILIP I. GRINER

IBLA 80-497

Decided January 26, 1981

Appeal from a decision of the Idaho State Office, Bureau of Land Management, rejecting recordation of two mining claims and declaring the claims invalid. I MC 45009 and 45010.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Recordation

For mining claims located after Oct. 21, 1976, copies of notices or certificates of location must be recorded with BLM within 90 days after the date of location. 43 CFR 3833.1-2(d) states that a location notice shall be accompanied by a service fee. There can be no recordation unless the notice is accompanied by the stated fee, or until it is paid. Where the filing fee is not paid within 90 days after the date of location for a claim located after Oct. 21, 1976, the claim must be deemed abandoned and void.

2. Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations.

APPEARANCES: Philip I. Griner, pro se.

OPINION BY ACTING ADMINISTRATIVE JUDGE HARRIS

Philip I. Griner appeals from a decision rendered February 14, 1980, by the Idaho State Office, Bureau of Land Management (BLM), declaring two mining claims, I MC 45009 and 45010, rejected and invalid. The decision states:

On October 24, 1979, we received a letter and location notices for two mining claims from you. On December 4, 1979, you were notified that a \$10.00 service fee (\$5.00 per claim) and a map identifying your claims is needed in order to complete your filing. All mining claims located after October 21, 1976 must be filed in the proper BLM office within 90 days of the date of location shown on the location notice per Regulation 43 CFR Part 3833.1-2. January 20, 1980 was the 90th day, and to date, we have received no response. Therefore, your claims are rejected and considered invalid.

On appeal appellant states that he does not recall receiving a notice from BLM concerning the fees and maps and that he thought the information and fees submitted to the county recorder were adequate.

[1] For mining claims located after October 21, 1976, copies of notices or certificates of location must be recorded with BLM within 90 days after the date of location. The applicable regulation, 43 CFR 3833.1-2(d), specifically provides: "Each claim or site filed shall be accompanied by a \$5 service fee which is not returnable. A notice or certificate of location will not be accepted if it is not accompanied by the service fee and will be returned to the owner." Payment of the service fee is a mandatory requirement. Without payment of the filing fee, there can be no recordation. Topaz Beryllium Co. v. United States, 479 F. Supp. 309 (D. Utah 1979) (appeal pending); Joe B. Cashman, 43 IBLA 239 (1979). Where the filing fee is not paid within 90 days after the date of location for a claim located after October 21, 1976, the claim must be deemed abandoned and void. Fleck Mining and Investment Co., 49 IBLA 187 (1980). The BLM decision in this case was proper.

[2] While it is unfortunate that appellant may not have received the notice sent by BLM, it does not relieve appellant of his filing responsibility. All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Hugh Johnson, 50 IBLA 47 (1980); Alfred Letcher, 49 IBLA 193 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris

Acting Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Douglas E. Henriques
Administrative Judge

